

the District Director that it is impossible to furnish a receipt for such foreign tax payment, the foreign tax return, or direct evidence of the amount of tax withheld at the source, the District Director, may, in his discretion, accept secondary evidence thereof as follows:

(1) *Receipt for payment.* In the absence of a receipt for payment of foreign taxes there shall be submitted a photostatic copy of the check, draft, or other medium of payment showing the amount and date thereof, with certification identifying it with the tax claimed to have been paid, together with evidence establishing that the tax was paid for taxpayer's account as his own tax on his own income. If credit is claimed on an accrual method, it must be shown that the tax accrued in the taxable year.

(2) *Foreign tax return.* If the foreign tax return is not available, the foreign tax has not been paid, and credit is claimed on an accrual method, there shall be submitted—

(i) A certified statement of the amount shall be submitted—

(ii) Excerpts from the taxpayer's accounts showing amounts of foreign income and tax thereon accrued on its books.

(iii) A computation of the foreign tax based on income from the foreign country carried on the books and at current rates of tax to be established by data such as excerpts from the foreign law, assessment notices, or other documentary evidence thereof.

(iv) A bond, if deemed necessary by the District Director, filed in the manner provided in cases where the foreign return is available, and

(v) In case a bond is not required, a specific agreement wherein the taxpayer shall recognize its liability to report the correct amount of tax when ascertained, as required by the provisions of section 905 (c).

If at any time the foreign tax receipts or foreign tax returns become available to the taxpayer, they shall be promptly submitted to the district director.

(3) *Tax withheld at source.* In the case of taxes withheld at the source from dividends, interest, royalties, compensation, or other form of income, where evidence of withholding and of

the amount withheld cannot be secured from those who have made the payments, the district director may, in his discretion, accept secondary evidence of such withholding and of the amount of the tax so withheld, having due regard to the taxpayer's books of account and to the rates of taxation prevailing in the particular foreign country during the period involved.

(c) *Credit for taxes accrued but not paid.* In the case of a credit sought for a tax accrued but not paid, the district director may, as a condition precedent to the allowance of a credit, require a bond from the taxpayer, in addition to Form 1116 or 1118. If such a bond is required, Form 1117 shall be used by an individual or by a corporation. It shall be in such sum as the Commissioner may prescribe, and shall be conditioned for the payment by the taxpayer of any amount of tax found due upon any redetermination of the tax made necessary by such credit proving incorrect, with such further conditions as the district director may require. This bond shall be executed by the taxpayer, or the agent or representative of the taxpayer, as principal, and by sureties satisfactory to and approved by the Commissioner. See also 6 U.S.C. 15.

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**§ 1.905-3T Adjustments to the pools of foreign taxes and earnings and profits when the allowable foreign tax credit changes (temporary).**

(a) *Foreign tax redeterminations subject to sections 985 through 989 of the Internal Revenue Code.* This section applies to a foreign tax redetermination that occurs in a taxpayer's taxable year beginning after December 31, 1986 with respect to—

(1) Tax that is paid or accrued by or on behalf of a taxpayer (including taxes paid or accrued prior to January 1, 1987), or

(2) Tax that is deemed paid or accrued by a taxpayer under section 902 or section 960 with respect to earnings

and profits of a foreign corporation accumulated in taxable years of the foreign corporation beginning after December 31, 1986.

(b) *Currency translation rules*—(1) *Accrual of foreign tax*. Accrued and unpaid foreign tax liabilities denominated in foreign currency, as determined under foreign law, shall be translated into dollars at the exchange rate as of the last day of the taxable year of the taxpayer.

(2) *Payments of foreign tax*. Foreign tax liabilities denominated in foreign currency shall be translated into dollars at the rate of exchange for the date of the payment of the foreign tax. Tax withheld in foreign currency shall be translated into dollars at the rate for the date on which the tax is withheld. Estimated tax paid in foreign currency shall be translated into dollars at the rate for the date on which the estimated tax payment is made.

(3) *Refunds of foreign tax*. A refund of foreign tax shall be translated into dollars using the exchange rate for the date of the payment of the foreign taxes. If a refund of foreign tax relates to foreign taxes paid on more than one date, then the refund shall be deemed to be derived from, and shall reduce, the last payment of foreign taxes first, to the extent thereof. See § 1.905-3T(d)(3) relating to the method of adjustment of a foreign corporation's pools of earnings and profits and foreign taxes.

(4) *Allocation of refunds of foreign tax*. Refunds of foreign tax shall be allocated to the same separate category as foreign taxes to which the refunded taxes relate. Refunds are related to foreign taxes of a separate category if the foreign tax that was refunded was imposed with respect to that separate category. See section 904(d) and § 1.904-6 concerning the allocation of taxes to separate categories of income. Earnings and profits of a foreign corporation in the separate category to which the refund relates shall be increased to reflect the foreign tax refund.

(5) *Basis of foreign currency refunded*. A recipient of a refund of foreign tax shall determine its basis in the currency refunded under the following rules.

(i) If the functional currency of the qualified business unit (as defined in

section 989 and the regulations thereunder, hereinafter "QBU") that paid the tax and received the refund is the United States dollar or the person receiving the refund is not a QBU, then the recipient's basis in the foreign currency refunded shall be the dollar value of the refund determined, under paragraph (b)(2) of this section, on the date the foreign tax was paid.

(ii) If the functional currency of the QBU receiving the refund is not the United States dollar and is different from the currency in which the foreign tax was paid, then the recipient's basis in the foreign currency refunded shall be equal to the functional currency value of the non-functional refunded translated into functional currency at the exchange rate between the functional currency and the non-functional currency, determined under paragraph (b)(2) of this section, on the date the foreign tax was paid.

(iii) If the functional currency of the QBU receiving the refund is the currency in which the refund was made, then the recipient's basis in the currency received shall be the amount of the functional currency received.

For purposes of determining exchange gain or loss on the initial payment of foreign tax in a non-functional currency, see section 988. For purposes of determining subsequent exchange gain or loss on the disposition of non-functional currency the basis of which is determined under this rule, see section 988.

(c) *Foreign tax redetermination*. For purposes of this section, the term "foreign tax redetermination" means a change in the foreign tax liability/ that may affect a United States taxpayer's foreign tax credit. A foreign tax redetermination includes—

(1) A refund of foreign taxes;

(2) A difference between the dollar value of the accrued foreign tax and the dollar value of the foreign tax actually paid attributable to differences in the units of foreign currency paid and the units of foreign currency accrued; or

(3) A difference between the dollar value of the accrued foreign tax and the dollar value of the foreign tax actually paid attributable to fluctuations

in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment.

(d) *Redetermination of United States tax liability*—(1) *Foreign taxes paid directly by a United States person.* If a foreign tax redetermination occurs with respect to foreign tax paid or accrued by or on behalf of a United States taxpayer, then a redetermination of the United States tax liability is required for the taxable year for which the foreign tax was claimed as a credit. See § 1.905-4T(b) which requires notification to the Internal Revenue Service of a foreign tax redetermination in situations in which a redetermination of United States liability is required. However, a redetermination of United States tax liability is not required (and a taxpayer need not notify the Service) if the foreign tax redetermination is described in paragraph (c)(3) (that is, it is caused solely by a foreign currency fluctuation), and the amount of the foreign tax redetermination with respect to the foreign country is less than the lesser of ten thousand dollars or two percent of the total dollar amount of the foreign tax initially accrued with respect to that foreign country for the taxable year. In such case, an appropriate adjustment shall be made to the taxpayer's United States tax liability in the taxable year during which the foreign tax redetermination occurs.

(2) *Foreign taxes deemed paid under sections 902 or 960*—(i) *Redetermination of the United States tax liability not required.* Subject to the special rule of paragraph (d)(4), a redetermination of United States tax liability is not required to account for the effect of a redetermination of foreign tax paid or accrued by a foreign corporation on the foreign taxes deemed paid by a United States corporation under sections 902 or 960. Instead, adjustments shall be made, and notification of such adjustments shall be filed, as required by paragraphs (d) (2) and (3) of this section.

(ii) *Adjustments to pools.* In the case of a foreign tax redetermination that affects the amount of foreign taxes deemed paid by a United States corporation for a taxable year—

(A) If the foreign tax redetermination occurs more than 90 days before the due date (determined with extensions) of the United States taxpayer's United States income tax return for such taxable year and before the taxpayer actually files that return, then that United States taxpayer shall adjust the foreign tax credit to be claimed on that return for such taxable year to account for the effect of the foreign tax redetermination (including the impact of the foreign tax redetermination on the earnings and profits of the foreign corporation);

(B) If a foreign tax redetermination occurs after the filing of the United States tax return for such taxable year, than appropriate upward or downward adjustments shall be made at the time of the foreign tax redetermination to the pool of foreign taxes and the pool of earnings and profits of the foreign corporation as provided in paragraph (d)(3) to reflect the effect of the foreign tax redetermination in calculating foreign taxes deemed paid with respect to distributions and inclusions (and the amount of such distributions and inclusions) that are includible in taxable years subsequent to the taxable year for which such tax return is filed; and

(C) If the foreign tax redetermination occurs within 90 days of the due date (determined with extensions) of the United States tax return and before the taxpayer actually files its tax return, then the taxpayer may elect either to adjust the foreign tax credit to be claimed on that return in the manner described in subparagraph (A) of this paragraph (d)(2)(ii) or adjust the pools of foreign taxes and earnings and profits to reflect the effect of the foreign tax redetermination in the manner described in paragraph (d)(2)(ii)(B), provided that consistent elections are made by the taxpayer and all other members of the affiliated group, as defined in section 1504(a), of which the taxpayer is a member, with respect to all foreign tax redeterminations occurring on or before any date within the 90 day period.

(iii) *Reporting requirements.* If an adjustment to the appropriate pool of foreign taxes and earnings and profits is required under paragraphs (d)(2)(ii) (B)

or (C), the United States corporation shall attach a notice of such adjustment to its return for the year with or within which ends the foreign corporation's taxable year during which the foreign tax redetermination occurs. The United States corporation shall provide: its name and identifying number; the foreign corporation's name, address, and identifying number (if any); the amount of any refunds of foreign taxes and the exchange rate as of the time of the original payment of the refunded foreign taxes; the amounts of unrefunded foreign taxes when paid and when accrued in foreign currency, the exchange rates for the accrual and payment dates of unrefunded foreign taxes, and the dollar amounts of unrefunded foreign taxes paid and accrued; the current balances of the pools of earnings and profits and foreign taxes before and after the foreign tax redetermination; and such other information as the Service may require. If a taxpayer may be required to redetermine its United States tax liability under paragraph (d)(4)(ii) of § 1.905-3T (relating to foreign tax adjustments of two percent or more), the notice shall specifically identify foreign tax adjustments described in such paragraph and shall include a complete factual description justifying the overaccrual of foreign tax. If the United States corporation fails to attach the required notice, to provide the necessary information, or to make the required adjustments, then it must provide notification of the foreign tax redetermination under § 1.905-4T. The Service may, in its discretion, make a redetermination of United States tax liability, and subject the taxpayer to the interest provisions of section 6601 and the penalty provisions of section 6689 and the regulations thereunder.

(iv) *Examples.* The following examples illustrate the application of paragraph (d)(2) (ii) and (iii) of this section. In each case, the exceptions of paragraph (d)(4) do not apply.

*Example 1.* Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. P is a fiscal year taxpayer whose taxable year ends on June 30. P does not request an extension for filing its United States tax return for the taxable year ending June 30, 1988 and files its return on its September 15, 1988 due date. S is a calendar year

taxpayer. In 1987, S earned 100u of subpart F income and accrued foreign taxes with respect to that income of 20u. At the time of accrual, the exchange rate was \$1:4u. S paid the 20u of accrued tax with respect to its income on June 15, 1988, when the exchange rate was \$1:2u. P includes the 100u in gross income under section 951(a) and claims a credit under section 960. P must use the amount of taxes actually paid by S (20u=\$10) in determining foreign taxes deemed paid by P. Pursuant to paragraph (d)(2)(ii)(A), P is required to compute foreign taxes deemed paid taking into account the foreign tax redetermination that occurred on June 15, which was more than 90 days before the due date of P's tax return (September 15, 1988) and before P actually filed its return.

*Example 2.* The facts are the same as in *Example 1*, except that S paid its tax liability on October 16, 1988. P filed its United States income tax return for 1987 on September 15, 1987, before the foreign tax redetermination. P properly computed its section 960 credit on its 1987 return with respect to its 100u subpart F inclusion on the basis of the amount of accrued foreign tax. Subject to the special rule of paragraph (d)(3)(iv), P is required, pursuant to the provisions of paragraph (d)(2)(ii)(B), to make the appropriate adjustments to the relevant pool of foreign taxes and pool of earnings and profits for purposes of calculating foreign taxes deemed paid in subsequent taxable years.

*Example 3.* Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. P is a fiscal year (June 30) taxpayer, and S is a calendar year taxpayer. In 1987, S earned 100u of general limitation manufacturing income that was not subpart F income. S accrued 40u in foreign tax with respect to that income as of the end of its taxable year when the exchange rate was \$1:4u. During 1987 and 1988, P received no distributions (and had no section 951(a)(1) inclusions) from S. S paid its taxes on March 15, 1988 when the exchange rate was \$1:2u (40u=\$20). S received a refund of foreign tax of 20u on July 1, 1988. No section 905 (c) adjustment is required on these facts. As of the end of 1988, S's pool of general limitation accumulated earnings and profits equals 80u (100u-20u), and its pool of foreign taxes imposed on general limitation income equals \$10 (40u-20u=20u, translated as of the date of payment (\$1:2u), equals \$10).

(3) *Adjustments to the pools of earnings and profits and foreign taxes—(i) In general.* If a foreign corporation is required to adjust its earnings and profits and foreign taxes under § 1.905-3T(d)(2)(ii) (B) or (C), then that adjustment shall be made in accordance with the provisions of this section.

(ii) *Refunds of foreign taxes.* A foreign corporation shall reduce its pool of foreign taxes in the appropriate separate category by the United States dollar amount of a foreign tax refund translated as provided in paragraph (b)(3). A foreign corporation shall increase its pools of earnings and profits in the appropriate separate category by the functional currency amount of the foreign tax refund. The allocation of the refund to the appropriate separate categories shall be made in accordance with §§ 1.905-3T(b)(4) and 1.904-6. If a foreign corporation receives a refund of foreign tax in a currency other than its functional currency, that refund shall be translated into its functional currency, for purposes of computing the increase to its pool of earnings and profits, at the exchange rate as of the date of the payment of the foreign tax.

(iii) *Additional assessments of foreign tax.* A foreign corporation shall increase its pool of foreign taxes in the appropriate separate category by the United States dollar amount of the additional foreign tax paid or accrued translated as provided in paragraphs (b) (1) and (2). A foreign corporation shall decrease its earnings and profits in the appropriate separate category by the functional currency amount of the additional foreign tax paid or accrued. The allocation of the additional amount of foreign tax among separate categories shall be made in accordance with § 1.904-6.

(iv) *Refunds of foreign taxes of lower tier foreign corporations that cause deficits in foreign tax pools.* If a lower tier foreign corporation receives a refund of foreign tax after making a distribution to an upper tier foreign corporation and the refund would have the effect of reducing below zero the lower tier corporation's pool of foreign taxes in any separate category, then both the lower tier and upper tier corporations shall adjust the appropriate pool of foreign taxes to reflect that refund. The upper tier foreign corporation shall adjust its pool of foreign taxes by the difference between the United States dollar amount of foreign tax deemed paid by the upper tier foreign corporation prior to the refund and the United States dollar amount of foreign tax recomputed as if the refund occurred prior to

the distribution. The upper tier foreign corporation shall not make any adjustment to its earnings and profits because foreign taxes deemed paid by the upper tier corporation are not included in the upper tier corporation's earnings and profits. The lower tier foreign corporation shall adjust its pool of foreign taxes by the difference between the United States dollar amount of the refund and the United States dollar amount of the adjustment to the upper tier foreign corporation's pool of foreign taxes. The earnings and profits of the lower tier foreign corporation shall be adjusted to reflect the full amount of the refund. The provisions of this paragraph (d)(3)(iv) do not apply to distributions or inclusions to a United States person. See § 1.905-3T(d)(4)(iv) for rules relating to actual or deemed distributions made to a United States person.

(v) *Examples.* The following examples illustrate the application of this paragraph (d)(3).

*Example 1.* Controlled foreign corporation (CFC) is a wholly-owned subsidiary of its domestic parent, P. Both CFC and P are calendar year taxpayers. CFC has a functional currency, the u, other than the dollar and maintains its pool of earnings and profits in that currency. At the end of year 1, CFC paid 100u in taxes with respect to non-subpart F income when the exchange rate was \$1:1u. In year 2, on a date that is after P filed its United States tax return, CFC receives a refund of 50u of its year 1 taxes. CFC made no distributions to P in year 1. In accordance with paragraph (d)(3)(ii) and subject to paragraph (d)(4), CFC shall reduce its pool of foreign taxes by \$50 and increase its pool of earnings and profits by 50u.

*Example 2.* Controlled foreign corporation (CFC) is a wholly-owned subsidiary of its domestic parent, P. Both CFC and P are calendar year taxpayers. In year 1 CFC earned 400u of general limitation manufacturing income and 200u of shipping income. On date 1, CFC paid 200u of foreign tax, 100u with respect to general limitation manufacturing income, and 100u with respect to shipping income. On date 1, the exchange rate is \$1:1u. On date 2, a date that is after the filing of P's United States tax return, CFC receives a refund of 75u, 25u of which is related to the manufacturing income and 50u of which is related to the shipping income. Subject to paragraph (d)(4), CFC shall reduce its pools of foreign taxes related to general limitation income and shipping income by \$25 and \$50, respectively (because the refund is translated at the rate of exchange prevailing on

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the date of payment of the foreign tax), and increase the respective pools of earnings and profits by 25u and 50u (because the earnings and profits are increased by the functional currency amount of the refund received). If the refund to CFC was not specifically related to any separate category of income, CFC, pursuant to § 1.904-6, is required to allocate that refund in accordance with the provisions of that section.

**Example 3.** CFC1 is a foreign corporation that is wholly-owned by P, a domestic corporation. CFC2 is a foreign corporation that is wholly-owned by CFC1. Unless stated otherwise, the exchange rate is always \$1.1u. In year 1, CFC2 has earnings and profits of 100u (net of foreign taxes) and paid 100u in foreign taxes with respect to those earnings. CFC2 has no income and pays no foreign taxes in years 2 and 3. CFC1 has no earnings and profits other than those resulting from distributions from CFC2 and pays no foreign taxes.

**Situation (i).** In year 2, CFC2 receives a refund of foreign taxes of 25u. In year 3, CFC2 makes a distribution of CFC1 of 50u. CFC1 is deemed to have paid \$30 of foreign taxes with respect to that distribution (50u/125u×\$75). At the end of year 3, the following reflects the pools of earnings and profits and foreign taxes of CFC1 and CFC2.

|              | Earnings and profits(u) | Foreign taxes       |
|--------------|-------------------------|---------------------|
| <b>CFC2:</b> |                         |                     |
| Y1 .....     | 100                     | \$100               |
| Y2 .....     | 100+25=125              | \$100 - <\$25>=\$75 |
| Y3 .....     | 125 - <50>=75           | \$75 - <\$30>=\$45  |
| <b>CFC1:</b> |                         |                     |
| Y3 .....     | 50                      | 30                  |

**Situation (ii).** The facts are the same as situation (i), except that CFC2 makes a distribution of 50u in year 2 and receives a refund of 75u in year 3. In year 2 the amount of foreign taxes deemed paid by CFC1 would be \$50 (50u/100u×\$100). Both CFC1 and CFC2 must adjust their pools of foreign taxes in year 3 because the year 3 refund would have the effect of reducing below zero CFC2's pool of foreign taxes. CFC1 reduces its pool of foreign taxes by \$42.86 determined as follows: \$50 (foreign taxes deemed paid on the distribution from CFC2) - \$7.14 (the foreign taxes that would have been deemed paid had the refund occurred prior to the distribution (50u/175u×\$25)). CFC2 reduces its pool of foreign taxes by \$32.14 (the difference between the dollar value of 75u refund determined as of the date of payment of the foreign tax and the \$42.86 adjustment to CFC1's pool of foreign taxes). At the end of year 3, the following reflects the pools of foreign taxes and earnings and profits for CFC1 and CFC2.

|              | Earnings and profits(u) | Foreign taxes            |
|--------------|-------------------------|--------------------------|
| <b>CFC2:</b> |                         |                          |
| Y1 .....     | 100                     | \$100                    |
| Y2 .....     | 100 - <50>=50           | \$100 - <\$50>=\$50      |
| Y3 .....     | 50+75=125               | \$50 - <\$32.14>=\$17.86 |
| <b>CFC1:</b> |                         |                          |
| Y2 .....     | 50                      | \$50                     |
| Y3 .....     | 50                      | \$50 - <\$42.86>=\$7.14  |

(4) **Exceptions.** The provisions of paragraph (d)(2) of this section shall not apply and a redetermination of United States tax liability is required to account for the effect of a redetermination of foreign tax on foreign taxes deemed paid by a United States corporation under section 902 or section 960 to the extent provided in this paragraph (d)(4).

(i) **Hyperinflationary currencies.** A redetermination of United States tax liability is required if the foreign tax liability is in a hyperinflationary currency. The term "hyperinflationary currency" means the currency of a country in which there is cumulative inflation during the base period of at least 100% as determined by reference to the consumer price index of the country listed in the monthly issues of International Financial Statistics, or a successor publication, of the International Monetary Fund. "Base period" means, with respect to any taxable year, the thirty-six calendar months immediately preceding the last day of such taxable year (see § 1.985-2T(b)(2)).

(ii) **Foreign tax adjustment of two percent or more.** If the foreign tax liability of a United States taxpayer is in a currency other than a hyperinflationary currency and the amount of foreign tax accrued for the taxable year to a foreign country, as measured in units of foreign currency, exceeds the amount of foreign tax paid to that foreign country for the taxable year (as measured in units of foreign currency) by at least two percent, then the Service, in its discretion, may require a redetermination of United States tax liability.

(iii) **Example.** The provisions of paragraph (d)(4)(ii) are illustrated by the following example.

**Example.** Controlled foreign corporation is a wholly-owned subsidiary of its domestic parent, P. Both CFC and P are calendar year

taxpayers. In year 1, CFC has general limitation income of 200u and, by year-end, had accrued foreign taxes with respect to that income of 100u when the exchange rate is \$1:1u. In year 1, CFC makes a distribution to P of 50u, half of its earnings and profits of 100u. P is deemed to have paid \$50 of foreign tax with respect to that distribution ( $50u/100u \times \$100$ ). In year 2, after P has filed its United States tax return, CFC pays its actual foreign tax liability of 98.50 when the exchange rate is \$1:1u. Subject to paragraph (d)(4), CFC must reduce its pool of foreign taxes by \$1.50 and increase the corresponding pool of earnings and profits by 1.50u. (The refund is translated into dollars at the rate of exchange prevailing on the date of payment of the foreign tax, and the adjustment to earnings and profits is in "u"s.) In year 2, CFC earns 200u of general limitation income and accrues 120u of tax when the exchange rate is \$1:1u. In year 2, CFC distributes 100u to P. P is deemed to have paid \$128 of foreign tax ( $(\$48.50 + \$120) \times 100u / (51.50u + 80u)$ ). In year 3, after P filed its year 2 United States tax return, CFC pays its actual year 2 tax liability of 100u when the exchange rate is \$1:1u. The Service may require P to recompute its year 2 United States tax liability to account for the effect of the overaccrual of foreign tax pursuant to § 1.905-3T(d)(4)(ii).

(iv) *Deficit in foreign tax pool.* A redetermination of United States tax liability is required if a foreign tax redetermination occurs with respect to foreign taxes deemed paid with respect to a subpart F inclusion or an actual distribution which has the effect of reducing below zero the distributing foreign corporation's pool of foreign taxes in any separate category. Whether a foreign corporation's pool of foreign taxes is reduced below zero shall be determined at the close of the taxable year of the foreign corporation in which the foreign tax redetermination occurred. In no case shall taxes paid or accrued with respect to one separate category be applied to offset a negative balance in any other separate category.

(v) *Example.* The provisions of paragraph (d)(4)(iv) are illustrated by the following example.

*Example.* Controlled foreign corporation (CFC) is a wholly-owned subsidiary of P, a domestic corporation. Both P and CFC are calendar year taxpayers. In year 1, CFC has 200u of general limitation income with respect to which 100 of taxes are paid when the exchange rate was \$1:1u. In year 1, CFC distributes half (50u) of its earnings and profits (100u). Under section 902, P is deemed to have paid \$50 of the foreign taxes paid by CFC

with respect to that distribution ( $50u/100u \times \$100$ ). In year 2, CFC receives a refund of all of its year 1 taxes (100u). In year 2, CFC earns an additional 290u of income—200u of shipping income with respect to which 100u of taxes are paid, and 90u of general limitation income with respect to which 45u of taxes are paid when the exchange rate was \$1:1u. P is required to redetermine its year 1 United States tax liability to account for the foreign tax redetermination occurring in year 2 because, if an adjustment to CFC's pool of general limitation taxes were made, the pool would be  $< \$5$ . CFC is not permitted to carry a deficit in any pool of foreign taxes; therefore, P must redetermine its United States liability for year 1.

(e) *Foreign tax imposed on foreign refund.* If the redetermination of foreign tax for a taxable year or years is occasioned by the refund to the taxpayer of taxes paid to a foreign country or possession of the United States and the foreign country or possession imposed tax on the refund, then the amount of the refund shall be considered to be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund. In such case, no other credit under section 901, and no deduction under section 164, shall be allowed for any taxable year with respect to such tax imposed on such refund.

(f) *Reduction of corporate level tax on distribution of earnings and profits.* If a United States shareholder of a controlled foreign corporation receives a distribution out of previously taxed earnings and profits and a foreign country has imposed tax on the income of the controlled foreign corporation, which tax is reduced on distribution of the earnings and profits of the corporation, then the United States shareholder shall redetermine its United States tax liability for the year or years affected.

[T.D. 8210, 53 FR 23613, June 23, 1988]

#### § 1.905-4T Notification and redetermination of United States tax liability (temporary).

(a) *Application of this section.* The rules of this section shall apply if, as a result of a foreign tax redetermination as defined in § 1.905-3T(c), a redetermination of United States tax liability is required under § 1.905-3T.